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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA  
FOURTH APPELLATE DISTRICT  
DIVISION THREE

THE PEOPLE,

Plaintiff and Respondent,

v.

MINH TAN TA,

Defendant and Appellant.

G028765

(Super. Ct. No. 00WF2395)

O P I N I O N

Appeal from a judgment of the Superior Court of Orange County, Richard W. Stanford, Jr., Judge. Affirmed.

Betty A. Haight, under appointment by the Court of Appeal, for Defendant and Appellant.

Bill Lockyer, Attorney General, Robert R. Anderson, Chief Assistant Attorney General, Gary W. Schons, Assistant Attorney General, Patti W. Ranger and Elizabeth S. Voorhies, Deputy Attorneys General, for Plaintiff and Respondent.

\* \* \*

A jury convicted Minh Tan Ta of petty theft with a prior. (Pen. Code, §§ 666, 484, subd. (a).) He contends the trial court should have granted his motion for acquittal (Pen. Code, § 1118.1) because the evidence was insufficient to support a conviction. We find no error and affirm.

## I

Hieu Mai worked as a plainclothes security officer for the Vinh Phat supermarket. On October 7, 2000, Mai spotted Ta approaching the seafood counter carrying a bag of bananas, and continued watching as Ta selected bags of shrimp and lobster. Suspicious, Mai followed defendant as he walked through the store. Glancing over both shoulders, Ta continually scanned the market as he strolled through the aisles. Mai continued his surveillance for 10 minutes. Eventually, Ta made his way toward the front of the store near the checkout counters. Mai, maintaining a safe distance, continued to observe the putative shopper.

Ta walked past the cash registers and toward the front door, still carrying the three bags of groceries. Uniformed security officer Chau Nguyen approached Ta and asked if he needed help. Ta replied “No,” looked at some items in a nearby display case and retreated back to the area between the shopping aisles and the checkout counters. There defendant paced back and forth for approximately 15 minutes. Finally, defendant moved past the checkout lanes and approached the front door. He paused as an incoming shopper entered through the automatic entrance. Using the same door, Ta made a beeline out the store.

Mai and Chau Nguyen stopped Ta outside and asked him to return to the store. Ta was cooperative. Before they returned, however, Viet Hung Nguyen approached and requested to speak to the manager on Ta’s behalf. Nevertheless, Ta was arrested. A later search revealed he had \$140 on his person; the value of the unpaid items was \$40.

At trial, Ta's sole witness was Hung Nguyen, the man who unsuccessfully intervened for him. Hung Nguyen testified he had accompanied his companion Ta into the Vinh Phat supermarket. Together, they selected lobster and shrimp from the seafood counter and approached the lengthy checkout line. Hung Nguyen deposited the groceries with Ta and told him to wait in line while Hung Nguyen purchased hot food in another part of the store. Returning five minutes later, Hung Nguyen did not see Ta. After checking the parking lot, Hung Nguyen spotted Ta walking out of the market with the grocery bags. He unsuccessfully attempted to explain he intended to pay for the groceries. Neither security officer noticed anyone with Ta in the store.

## II

The trial court denied Ta's motion for acquittal (Pen. Code, § 1118.1) made at the close of his case. Ta contends the court erred because the evidence was insufficient to support a conviction. Specifically, he argues "[n]o reasonable trier of fact could have found that appellant intended to steal the merchandise when he openly walked out of the store, past a uniformed security guard, without any attempt to steal the items." Pointing out he never attempted to flee or resist, Ta concludes "the only rational inference is that [he] left the store [to look for] his companion about his plans regarding the lobster and shrimp." Nonsense.

In reviewing the sufficiency of the evidence, we examine "the whole record in the light most favorable to the judgment to determine whether it discloses substantial evidence . . . such that a reasonable trier of fact could find the defendant guilty beyond a reasonable doubt. [Citation.] The appellate court presumes in support of the judgment the existence of every fact the trier could reasonably deduce from the evidence. [Citations.] The same standard applies when the conviction rests primarily on circumstantial evidence. . . . "If the circumstances reasonably justify the trier of fact's findings, the opinion of the reviewing court that the circumstances might also reasonably

be reconciled with a contrary finding does not warrant a reversal of the judgment.

[Citation.]””” ( *People v. Kraft* (2000) 23 Cal.4th 978, 1053-1054.)

Here, there is ample evidence supporting the jury’s verdict. Ta drew the attention of a security officer by constantly glancing over his shoulder while traversing the store carrying groceries. He bypassed open cash registers and was on his way out when a security officer approached with an inquiry. Ta declined assistance, glanced at a display case and retreated to the area in front of the registers. He paced back and forth for approximately 15 minutes. Finally, Ta again moved past the checkout counters and quickly slipped out the automatic entrance. The jury reasonably could infer Ta was initially on his way out with the unpaid goods when interrupted by the security officer. He retreated, waiting for what he believed was an opportune time to escape undetected. Moreover, the jury reasonably could conclude Hung Nguyen’s exculpatory testimony lacked credibility. Neither security guard saw Hung Nguyen earlier, and Ta’s quick getaway belies the claim he was merely looking for his lost companion. In sum, the verdict is supported by an abundance of evidence.

The judgment is affirmed.

ARONSON, J.

WE CONCUR:

BEDSWORTH, ACTING P. J.

MOORE, J.